MEDICOLEGAL AND ETHICAL ISSUES

Lesson Objective:

- Identify the medicolegal and ethical issues for an Emergency Medical Technician Basic (EMT-B)

Overview:

- Scope of Practice
- Advance Directives
- Consent
- Assault / Battery
- Refusals
- Abandonment

Overview:

- Negligence
- Duty to Act
- Confidentiality
- Special Situations
- Potential Crime Scene / Evidence Preservation
- Special Reporting Situations

Let's start with...

- **Scope of Practice**
  - Legal Duties
  - Ethical Responsibilities

Scope of Practice

Legal Duties

To the patient, medical director and the public

Render necessary interventions outlined in the scope of practice

Scope of Practice

- **Defined by state legislation**
  - Enhanced by medical direction through the use of protocols and standing orders
  - Referenced to the National Standard Curricula

Scope of Practice

- **Legal right to function**
  - Telephone/radio communications
  - Approved standing orders/protocols
  - Responsibility to medical direction

Ethical Responsibilities

- Make physical and emotional needs of patient a priority
- Practice & maintain skills (master it)
- Take continuing education classes & refresher programs
- Review performance
- Honest reporting

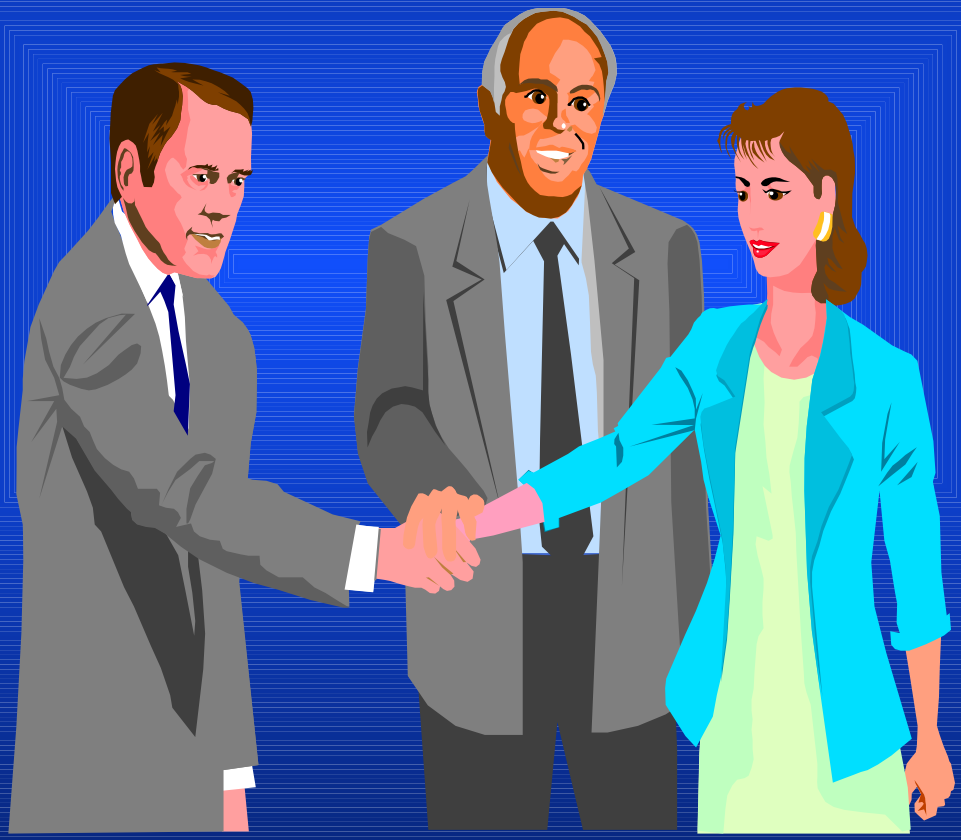
Now let's learn about advance directives…

- DNR Order

(DNR) general guidelines

- Patients have the right to refuse treatment
- Written physician's order is required for DNR
- Periodically review state & local legislation
- When in doubt, resuscitate

Consent



Consent

- **Expressed**
  - Pt must be of legal age and able to make rational decisions
  - Pt must be informed of the steps of the procedures and all related risks

Consent

- **Expressed (cont.)**
  - **Must be obtained from every conscious, mentally competent adult before rendering treatment**

Consent

- **Implied**
  - Assumed from the unconscious patient requiring emergency intervention

Consent

- **Implied (cont.)**
  - Based on the assumption that the unconscious patient would consent to life saving interventions

Consent

- **Children and mentally incompetent adults**
  - Consent for Tx must be obtained from the parent or legal guardian
    - Emancipation issues
    - State regulations regarding age of minors

Consent

- **Life threatening situations exist and parent or guardian are not available - care is rendered based on <u>Implied consent</u>**

Assault & Battery

- Unlawfully touching a patient without their consent
- Providing emergency care when the patient does not consent to the treatment

Refusals

- The patient has the right to refuse treatment
- Pt. may withdraw from treatment at any time
  - Example: Unconscious pt. regains consciousness and refuses transport to hospital

Refusals

- Must be made by mentally competent adults based on <u>expressed consent</u>
- Pt must understand all risks and sign a “release from liability” form

Refusals

- When in doubt, err in favor of providing care
- Documentation is key
  - Competent adult patients have the right to refuse treatment

Refusals

- **Before EMT-B leaves scene**
  - Try to persuade pt. to go to hospital
  - Ensure pt. can make rational decisions
  - Inform pt. why they should go and what the may happen if they don't

Refusals

- Consult MCC
- Consider assistance of police
- Document any assessments, and if pt. refuses treatment - ensure they sign a refusal form
- Never make the independent decision not to transport

What happens if the EMT stops treatment of a patient after it has been started?

Abandonment

- Termination of care without assuring the continuation of care at the same level or higher

What is it called if the care that you provide is below standard?

Negligence

- **Deviation from the accepted standard of care resulting in further injury to the patient**
  - **Components**
    - **Duty to act**
    - **Breach of the duty**
      - **Physical**
      - **Psychological Injury/damages were inflicted**
    - **The actions of the EMT-B caused the injury/damage**

Duty to Act

- **A contractual/legal obligation must exist**
  - **Implied**
    - **Patient calls for an ambulance and the dispatcher confirms that an ambulance will be sent**
    - **Treatment is begun on a patient**

Duty to Act

- Formal
  - Ambulance service has a written contract with the municipality - specific clauses within the contract should state when treatment can be refused

Duty to Act

- **Legal duty to act may not exist**
  - **In some states, off-duty EMT-B comes upon an accident**

Duty to Act

- When driving ambulance out of district and observes an accident
  - Moral/ethical duty to act
  - Risk management
  - Documentation
- Specific state regulations regarding duty to act

Confidentiality

- **Confidential information**
  - Patient history gained through interview
  - Assessment findings
  - Treatment rendered

Confidentiality

- **Releasing confidential information**
  - **Requires a written release from patient. Do not release on request, written or verbal, unless legal guardianship has been established**

Confidentiality

- **When a release is not required**
  - Other health care providers need to know for continued care
  - State law requires reporting incidents such as rape, abuse or gun shot wounds
  - Third party payment billing forms
  - Legal subpoena

What are some special situations and what does the EMT do?

Special Situations

- **Donor/organ harvesting consideration**
  - Signed legal permission
  - Separate donor card
  - Intent to be a donor on back of driver's license

Special Situations

- A potential organ donor should not be treated differently from any other patient requesting treatment

Special Situations

- **EMT-B's role**
  - Identify pt. as a potential donor
  - Establish communication with medical direction
  - Provide care to maintain viable organs

Medical ID Insignia

- Bracelet, necklace, card
- Indicates serious medical condition
  - Allergies
  - Diabetes
  - Epilepsy
  - Others

Scene Preservation

- Dispatch notifies police
- EMT-B responsibilities:
  - Primary concern is care of patient
  - Do not disturb scene unless emergency care requires it

Scene Preservation

- Observe and document
- Don’t cut through holes in clothing from gun shot wounds or stabbings

What are some special reporting requirements?

Special Reporting Requirements

- Established by state legislation
- Varies from state to state

Special Reporting Requirements

- **Required reporting**
  - **Abuse**
    - Child
    - Elderly
    - Spouse
  - **Crime**
    - Wounds obtained by violent crimes
    - Sexual assault

Special Reporting Requirements

- **Infectious disease exposure**
- **Patient restraint laws**
  - Forcing someone to be transported against their will
- **Mentally incompetent**
  - Intoxication with injuries

Summary:

- Scope of Practice
- Advance Directives
- Consent
- Assault/Battery
- Refusals

Summary:

- Abandonment
- Negligence
- Duty to Act
- Confidentiality
- Special Situations

Summary

- Scene Preservation
- Special Reporting Situations

Questions???